



STATE BOARD OF EQUALIZATION

450 N STREET, SACRAMENTO, CALIFORNIA
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(916) 322-2270 • FAX (916) 324-3984
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State Controller

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Executive Director

**STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento
March 18-19, 2008
NOTICE AND AGENDA (as of 7:25 p.m. 3/19/08)**

Agenda Changes

Listen Live on Tuesday, March 18, 2008

Tuesday, March 18, 2008

**9:30 a.m. Board Committee Meeting Convenes*
Board Meeting Convenes upon Adjournment of the Board Committee Meeting****

Agenda items occur in the order in which they appear on the agenda. When circumstances warrant, the Board's Chair, Dr. Chu, may modify the order of the items on the agenda. Items may be postponed to a subsequent day; however, items will not be moved to an earlier day.

Board Committee Meetings*

Legislative Committee+Dr. Chu, Committee Chair

Set forth below are suggestions for sales and use taxes legislation to be sponsored by the Board in the second year of the 2007-2008 Legislative Session. Additional suggestions will be included on the agenda for April 2008.

1. 2008 Legislative Proposals-Business Taxes (Sales and Use Taxes)

~~3-7 Amend Section 7076.4 and repeal Section 7076.5 of the Sales and Use Tax Law to delete the January 1, 2009 sunset date and to provide that if a Managed Audit Program liability is paid in full within 30 days of the notice of determination date any interest charges normally due will be abated.~~

2. 2008 Legislative Bill: Recommendation for Board Position

AB 3009 Sales Tax: Consumer: Itinerant Vendors – Author: Brownley

**Customer Service and Administrative+ Mr. Leonard, Committee Chair
Efficiency Committee**

1. E- Services Status Update and Electronic Transition Plan

The E-Services Status update explains current outreach activities and the status of the current e-filing projects. The Electronic Transition Plan proposes to increase taxpayer participation by transitioning taxpayers from paper to electronic filing.

Board Meeting****Oral Hearings****A. Homeowner and Renter Property Tax Assistance Hearing**

(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

A1. Darlene D. Hollins, 383301

For Appellant: Tyler McKinney, Representative

Darlene D. Hollins, Taxpayer

For Franchise Tax Board: Lisa Lawson, Hearing Representative

B. Corporate Franchise and Personal Income Tax Hearing

(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

~~B1. Carlos M. Alcala and Norma Alcala, 259159~~~~For Appellant: Carlos M. Alcala, Taxpayer~~~~Norma Alcala, Taxpayer~~~~Gloria Villareal, Bookkeeper/Witness~~~~Manuel Conde, Witness~~~~For Franchise Tax Board: Diane L. Ewing, Tax Counsel~~**C. Sales and Use Tax Appeals Hearing**

(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

C1. Ardeshir Eil Larijani, 295381 (GH)

For Petitioner: Andy Larijani, Taxpayer

Gary Packebush, Bookkeeper

For Department: Trecia Nienow, Tax Counsel

1:30 p.m. Board Meeting Reconvenes****C. Sales and Use Tax Appeals Hearings**

(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

C2. Michael Richard Luna, 356507 (KH)

For Petitioner: Michael Luna, Taxpayer

Terrence Johnson, Witness

For Department: Mariflor Jimenez, Hearing Representative

- C3. Patton Music Company, Inc., 119350 (KH)
 For Petitioner: Eric Miethke, Attorney
 James Armstrong, Taxpayer
 For Department: Randy Ferris, Tax Counsel
- C4. The Customer Company, 113119 (JHF)
 For Claimant: Ned Roscoe, Representative
 John Roscoe, Representative
 For Department: Kevin Hanks, Hearing Representative
- C5. Cigarettes Cheaper!, 80069 (JHF)
 For Claimant: Ned Roscoe, Representative
 For Department: Kevin Hanks, Hearing Representative
- C6. Fast N Easy, Inc., 89000770840 (KHM)
 For Claimant: Kavinder K. Chatkara, Representative
 B. Lal Chatkara, Representative
 For Department: Kevin Hanks, Hearing Representative
- ~~C7. Okboon Lee, 335693 (JH)
 For Petitioner: Richard Daly, Attorney
 For Department: Robert Tucker, Tax Counsel~~
- C8. George Sanderson Sturges, Jr., 298532 (UT)
 For Petitioner: George Sturges, Jr., Taxpayer
 For Department: Cary Huxsoll, Tax Counsel

There are no items for the following matters:

- D. Special Taxes Appeals Hearings
 E. Property Tax Appeals Hearings

F. Public Hearings

F1. Business Taxpayers' Bill of Rights Hearings+Mr. Gilman

Individuals have the opportunity to present their ideas, concerns, and recommendations regarding legislation, the quality of agency services, and other issues related to the Board's administration of its tax programs. At the business taxes hearings you can comment on the administration of sales and use taxes, environmental fees, fuel taxes, and excise taxes.

F2. Property Taxpayers' Bill of Rights Hearings+Mr. Gilman

Individuals have the opportunity to present their ideas, concerns, and recommendations regarding legislation, the quality of agency services, and other issues related to the Board's administration of its tax programs. At the property tax hearings you can comment on state and county property tax programs, and identify ways to resolve any problems identified in the Taxpayers' Rights Advocate's **Annual Report+**.

The following items are scheduled for Wednesday, March 19, 2008:

- G. Tax Program Nonappearance Matters – Consent
- H. Tax Program Nonappearance Matters – Adjudicatory
- I. Tax Program Nonappearance Matters

Chief Counsel Matters

- J. Rulemaking
These items are scheduled for Wednesday, March 19, 2008.
- K. Business Taxes
There are no items for this matter.

The following items are scheduled for Wednesday, March 19, 2008.

- L. Property Taxes
- M. Other Chief Counsel Matters

Administrative Session

The following items are scheduled for Wednesday, March 19, 2008:

- N. Consent Agenda
- O. Adoption of Board Committee Reports and Approval of Committee Actions
- P. Other Administrative Matters

Q. Closed Session

These items are scheduled for Wednesday, March 19, 2008.

Adjourn - The meeting will reconvene on Wednesday, March 19, 2008, at 9:30 a.m.

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If you would like specific information regarding items on this Notice and Agenda, please telephone (916) 322-2270 or e-mail: MeetingInfo@boe.ca.gov. Please be advised that material containing confidential taxpayer information cannot be publicly disclosed.

The hearing location is accessible to people with disabilities. Please contact Claudia Madrigal at (916) 324-8261, or e-mail Claudia.Madrigal@boe.ca.gov if you require special assistance.

Diane G. Olson, Chief
Board Proceedings Division

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- ** Public comment on any agenda item, other than a Closed Session item or an item which has already been considered by a Board Committee, will be accepted at that meeting.
- + Material is available for this Item.
- ++ Material will be available at a later date.
- "CF" Constitutional Function – The Deputy State Controller may not participate in this matter under Government Code section 7.9.



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Board Meeting**

Oral Hearings

C. Sales and Use Tax Appeals Hearing

(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

C9. Advanced Aviation, LLC, 314063, 314064 (UT)
For Petitioner: Apperance Waived
For Department: Carla Caruso, Tax Counsel

G. Tax Program Nonappearance Matters – Consent

(Contribution Disclosure forms not required pursuant to Gov. Code § 15626.)

G1. Legal Appeals Matters Mr. Angeja

- Petitions for Rehearing
 - 1a. Atlantic Richfield Company, 158211, 167993, 348075 (MT)
 - 1b. BP West Coast Products, LLC, 216210, 264250, 307637, 349423 (MT)
 - 1c. BP Products North America, Inc., 306843 (MT)
 - 2. ~~Onnik Mooradian and Mariette Mooradian, 220157, 220158, 292978, 293031 (MT)~~
 - 3. Robert Ingram, 260330 (EHC)
 - 4. Center for Bio-Ethical Reform, 271792 (UT)

- Hearing Notices Sent – No Response
 - 5. ~~Phillip N. Cutler, 377150 (AC)~~
 - 6. ~~Doris Lydia Cutler, 380705, 381147 (AC)~~

G2. Franchise and Income Tax Matters.....Ms. Kelly

- Decisions
 - 1. The Kivelstadt Family Trust, 391391
 - 2. Eduardo A. Manubay and Ivonah O. Manubay, 340464
 - 3. Pacific Canopy, Inc., 345419
 - 4. Berlinda Tolbert, 378537
- Petitions for Rehearing
 - 5. Karen J. Hodsdon, 383402
 - 6. Boyd Holdings, 362328
 - 7. Bradley Kastle, 349312
 - 8. Iceffine King, 360721
 - 9. Jimmy Lui, 374768, 378419, 383325

G3. Homeowner and Renter Property Tax

Assistance Matters.....Ms. Kelly

- Decisions
 - 1. Biagio A. Diritto, 388674
 - 2. Ruben V. Reyes, 356860
- Petitions for Rehearing
 - 3. Epifania A. Grio, 378392
 - 4. Sajjad Riyaz, 349075

G4. Sales and Use Taxes Matters Ms. Henry

- Redeterminations
 - 1. TGT Enterprises, Inc., 270403 (FHB)
 - 2. Glencore, Ltd., 391658 (OHB)
 - 3. Arts Des Provinces De France, Inc., 404160 (OHB)
- Relief of Penalty/Interest
 - 4. Terex Corporation, 431273 (OHA)
 - 5. PCS Leasing Company, L.P., 431274 (OHA)
- Denials of Claims for Refund
 - 6. NTT America, Inc., 420053 (OHB)
 - 7. Automotive Funding Group, Inc., 335887 (EA)
 - 8. Sprint Communications Company, LP 344618 (OHA)

G5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds..... Ms. Henry

- Credits and Cancellations
 - 1. Mechanics Tool & Supply Company, 432085 (CH)
- Refunds
 - 2. Calpaco Papers, Inc., 403452 (EH)
 - 3. Inamed Medical Product Corporation, 267193 (GH)
 - 4. Lennox Hearth Products, Inc., 396359 (EA)
 - 5. The Copley Press, Inc., 420665 (FH)
 - 6. Professional Hospital Supply, Inc., 401441 (EH)

7. Anheuser-Busch, Inc., 329569 (OHA)
8. Citigroup Global Markets, Inc., 387740 (OHB)
9. Abbott Laboratories, Inc., 425161 (OHA)
10. San Diego Metro Credit Union, 416162 (FH)
11. Point Loma Credit Union, 401542 (FH)
12. Long Beach Acceptance Corporation, 420985 (EA)
13. Sonic-Saturn of Silicon Valley, Inc., 381275 (GH)
14. Automotive Funding Group, Inc., 335887 (EA)
15. AT Plastics, Inc., 334826 (OH)
16. Sprint Communications Company, LP, 344618 (OHA)
17. Edwards Federal Credit Union, 401256 (ARH)
18. Eagle Community Credit Union, 421811 (EAA)
19. First Financial Credit Union, 416065 (AP)

There are no items for the following matters:

- G6. Special Taxes Matters
- G7. Special Taxes Matters – Credits, Cancellations, and Refunds
- G8. Property Tax Matters
- G9. Cigarette License Fee Matters
- G10. Legal Appeals Property Tax Matters

H. Tax Program Nonappearance Matters – Adjudicatory

(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

H1. Legal Appeals MattersMr. Angeja

- Petition for Rehearing
 1. Finn Moller, 288211 (AS)
- Hearing Notice Sent – Appearance Waived
 2. Smiland Paint Company, 52753, 135675, 139295, 165511, 214982, 259644, 306866, 346955 (MT)
- Cases Heard But Not Decided
 - ~~3a. Eulipia, Inc., 300130 (GH)~~
 - ~~3b. Los Gatos Restaurants, Inc., 299490 (GH)~~
 4. ~~Stephen Charles Borkenhagen, 302079 (GH)~~
 5. Shahrokh Matin, 308003 (CH)
 6. O.P. Schuman & Sons, Inc., 315317 (OHB)
 7. Shoreline Helicopters, LLC, 297719 (UT)
 8. The Auto Store of Merced, Inc., 168200 (KH)
 9. David Jay Sanfield, 332013 (AC)
 - 10a. Ock Ja Cho Lee, 357034 (AS)
 - 10b. Seung Suk Lee, 357033 (AS)
 - 11a. Don Ricardo's Restaurant, Inc., 42025 (AP)
 - 11b. Padrino's, Inc., 42029 (AC)

H2. Franchise and Income Tax MattersMs. Kelly

- Decisions
 1. Louis E. Cook and Nancy L. Cook, 258746
 2. Dana B. Fisher Sr. (Deceased) and A. Elizabeth Fisher, 346236

There are no items for the following matters:

- H3. Homeowner and Renter Property Tax Assistance Matters
- H4. Sales and Use Taxes Matters

~~H5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds~~

➤ ~~Refund~~

- ~~4. Star Crest Products of California, Inc., 424694~~

There are no items for the following matters:

- H6. Special Taxes Matters
- H7. Special Taxes Matters – Credits, Cancellations, and Refunds
- H8. Property Tax Matters
- H9. Cigarette License Fee Matters
- H10. Legal Appeals Property Tax Matters

I. Tax Program Nonappearance Matters

(Contribution Disclosure forms are not required pursuant to Gov. Code § 15626.)

I1. Property Tax Matters.....Mr. Gau

➤ Audits

- 1. Arrival Communications, Inc. (2391) “CF”
- 2. Virgin Mobile USA, LLC (2767) “CF”
- 3. Verizon Select Services, Inc. (7503) “CF”
- 4. Time Warner Telecom of California, L.P. (7522) “CF”
- 5. Evercom Systems, Inc. (7580) “CF”
- 6. BT Americas, Inc. (7758) “CF”

➤ Unitary Escaped Assessments

- 7a. Bell Atlantic Communications, Inc. (8071) “CF”
- 7b. Pay-Less Cellular (2683) “CF”

➤ Unitary Land Escaped Assessments

- 8a. AT&T Mobility, LLC (2606) “CF”
- 8b. Metro PCS California/Florida (2733) “CF”
- 8c. Fisher Wireless Services, Inc. (2760) “CF”

I2. Offers-in-Compromise RecommendationsMs. Ograd/Ms. Fong

- 1. Nancy Sandy Nenejian

Chief Counsel Matters

J. Rulemaking

- J1. Petition for Amendment of Property Tax Rule 140.1, Requirements for Managing General Partner of Limited Partnership for Welfare Exemption for Low-Income Housing Properties+Mr. Lambert

Memorandum and recommendation on limited partnerships with a sole non-profit general partner acting as a managing general partner.

J2. *Petition for Amendment of Property Tax Rule 462.001, Change in Ownership – General+* Mr. Lambert

Staff Memorandum and Recommendation on Proposed Amendments to Property Tax Rule 462.001 requiring that assessors calculate the value of a transferred interest in real property and compare it to fee value to determine if a change in ownership has occurred.

~~J3. *Petition for Adoption of Proposed Property Tax Rule 145, Hospitals – Qualifying Organizations for the Welfare Exemption+* Mr. Lambert~~

~~Staff Memorandum and Recommendation on Proposed Rule 145, which interprets Revenue and Taxation Code section 214 to require that nonprofit hospitals provide specified charity care to qualify for exemption.~~

J4. *Alcoholic Beverage Tax Flavored Malt Beverages: Regulation 2558, Distilled Spirits; Regulation 2559, Presumption – Distilled Spirits; Regulation 2559.1; Rebuttable Presumption – Distilled Spirits; Regulation 2559.3, Internet List; and Regulation 2559.5, Correct Classification+* Ms. Brisbane

Staff request for approval to submit revised language and Formal Issue Paper 07-007, as a document relied upon, to the 15-day file.

K. Business Taxes

There are no items for this matter.

1:30 p.m. Board Meeting Reconvenes**

L. Property Taxes

L1 *Consideration of Policy Change – Opinion on Welfare Exemption “Community Benefit Test” under Revenue and Taxation Code section 214+* Mr. Lambert

Revised staff estimate of potential revenue impact of an expanded interpretation of the "community benefit test" for purposes of the welfare exemption.

L2 *Status Report on Cable Television Property Assessment Issues+* Mr. Lambert

Discussion on Memorandum providing an introductory overview of cable television-related property tax assessment issues.

L3 *State Assessee Property Tax Appeals 2008 Procedures+* Mr. Lambert

Memorandum and request for guidance on procedures to be used with respect to state assessee petitions filed in 2008.

L4 Board Consideration of Findings and DecisionsMr. Ambrose

1. Covad Communications Company (7706), 414850
2. Golden State Water Company (101), 414767
3. Lodi Gas Storage, LLC (198), 414766
4. 01 Communications, Inc. (7791), 388338
5. Telscape Communications, Inc. (7907), 414762
- 6a. Verizon Wireless (2512), 405333
- 6b. Sacramento Valley LP (2513), 405373
- 6c. Los Angeles SMSA Ltd (2532), 405374
- 6d. Fresno MSA LP (2552), 405375
- 6e. GTE of California LP (2559), 405376
- 6f. GTE Mobilnet of Santa Barbara (2627), 405377
- 6g. Cellco Partnership (2667), 405378
- 6h. California RSA #4 (2669), 405379

M. Other Chief Counsel Matters**M1. Discussion of Board Hearing Procedures for Briefing, Submitting Evidence, and Requesting Clarification+Mr. Lambert/Mr. Heller**

Discussion of procedures under the Rules for Tax Appeals relating to requests for and submission of additional briefing and evidence.

Administrative Session**N. Consent Agenda Ms. Olson****N1. Retirement Resolutions+**

- Yvonne Szymanski
- Patricia S. Hatcher-Jones

N2. Approval of 2007-2008 Superior Accomplishment Award Program Nominees+**O. Adoption of Board Committee Reports and Approval of Committee Actions**

- O1. Legislative Committee
- O2. Customer Service and Administrative Efficiency Committee

P. Other Administrative Matters**P1. Executive Director's Report+Mr. Hirsig**

- a. Report on Paperwork Reduction and Environmental Stewardship at BOE
- b. Headquarters Building Remediation Update

P2. Chief Counsel Report

There are no items for this matter.

P3. Deputy Director's Report**a. Sales and Use Tax..... Ms. Henry**

1. Security Deposits Program Update and Discussion of Board Member Steel's Recommendations+

2. Tax Gap Proposal Update – Outsourcing Collections+

b. Property and Special Taxes Mr. Gau

1. Cigarette and Tobacco Products Retailer License Update++ – Ms. Bartolo

c. Administration..... Ms. Houser

1. Update on Proposed Fiscal Year 2008-2009 Budget+

d. Technology Services Ms. Brannen

1. Update on BOE Information Technology Activities+

Announcement of Closed Session Ms. Olson**Q. Closed Session**

Q1. Pending litigation: *Schroeder, et al. v. State Board of Equalization, et al.* Superior Court of California for Sacramento County, Case No. 34-2008-00004467-CU-MT-GDS (Gov. Code § 11126(e)(2)(B)(i))

Q2. Discussion and approval of staff recommendations regarding settlement cases (Rev. & Tax. Code §§ 6901, 7093.5, 30459.1 and 50156.11)

Q3. Discussion and action on personnel matters (Gov. Code § 11126(a))

Announcement of Open Session Ms. Olson**Adjourn**

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